

COUNCIL MEETING

AUGUST 19, 2020

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Arryl Kaneshiro at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, August 19, 2020 at 8:50 a.m., after which the following Members answered the call of the roll:

Honorable Mason K. Chock
Honorable Felicia Cowden
Honorable Luke A. Evslin (*via remote technology*)
Honorable Ross Kagawa
Honorable KipuKai Kuali'i
Honorable Arryl Kaneshiro

Excused: Honorable Arthur Brun*

Council Chair Kaneshiro: Please note that we will run today's meetings pursuant to the Governor's Supplementary Emergency Proclamation dated March 16, 2020, Sixth Supplementary Emergency Proclamation dated April 25, 2020, Seventh Supplementary Emergency Proclamation dated May 5, 2020, Eighth Supplementary Emergency Proclamation dated May 18, 2020, Ninth Supplementary Emergency Proclamation dated June 10, 2020, and Tenth Supplementary Emergency Proclamation dated July 17, 2020.

APPROVAL OF AGENDA.

Councilmember Chock moved for approval of the agenda, as circulated, seconded by Councilmember Kuali'i.

(No written testimony was received and no registered speakers requested to testify regarding this agenda item.)

Council Chair Kaneshiro: Is there any discussion on the agenda from the members?

The motion for approval of the agenda, as circulated, was then put, and carried by a vote of 6:0:1*.

Council Chair Kaneshiro: The motion is carried. Next item.

MINUTES of the following meetings of the Council:

August 5, 2020 Council Meeting

August 5, 2020 Public Hearing re: Bill No. 2775, Draft 2 and Bill No. 2795

Councilmember Kualii moved to approve the Minutes as circulated, seconded by Councilmember Cowden.

(No written testimony was received and no registered speakers requested to testify regarding these agenda items.)

Council Chair Kaneshiro: Is there any discussion on the Minutes from the members?

The motion to approve the Minutes, as circulated, was then put, and carried by a vote of 6:0:1*.

Council Chair Kaneshiro: The motion is carried.

CONSENT CALENDAR:

C 2020-200 Communication (07/13/2020) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee Jennifer Carter to the Civil Service Commission – Term ending 12/31/2022.

C 2020-201 Communication (07/31/2020) from Council Chair Kaneshiro, providing written disclosure of a possible conflict of interest and recusal relating to C 2020-196, relating to a donation of gift certificates from Grove Farm Foundation, valued at \$10,000.00, to help Kaua'i's *kūpuna* in need of assistance, as he is a Project Manager employed by Grove Farm Company, Inc.

C 2020-202 Communication (08/11/2020) from Councilmember Chock, transmitting for Council consideration, the following measure for inclusion in the 2021 Hawai'i State Association of Counties (HSAC) Legislative Package and the 2021 County of Kaua'i Legislative Package:

- A Bill for an Act Relating to Registration of Vehicles, to amend Hawai'i Revised Statutes (HRS) Section 286-52, by enhancing the vehicle transfer process requiring both the transferor and transferee to appear in person to execute the transfer, which will better protect both parties from fraud and ensure that Counties keep current and accurate records of vehicle transfers and ownership.

Councilmember Kualii moved to receive C 2020-200, C 2020-201, and C 2020-202 for the record, seconded by Councilmember Chock.

Council Chair Kaneshiro: Is there any discussion from the members on the Consent Calendar?

(No written testimony was received and no registered speakers requested to testify regarding these agenda items.)

The motion to receive C 2020-200, C 2020-201, and C 2020-202 for the record was then put, and carried by a vote of 6:0:1*.

Council Chair Kaneshiro: The motion is carried. Next item.

COMMUNICATIONS:

C 2020-203 Communication (07/30/2020) from the Housing Director, requesting Council approval to apply for, receive, and expend Federal funds, in the amount of \$144,000.00, and approval to indemnify the United States Department of Housing & Urban Development (HUD), for the continuation of the two (2) Housing Choice Voucher Family Self-Sufficiency (HCVFSS) Program Coordinators' salaries and fringe benefits.

Councilmember Kualii moved to approve C 2020-203, seconded by Councilmember Chock.

Council Chair Kaneshiro: Is there any discussion from the members on this item? Councilmember Cowden.

Councilmember Cowden: Just a quick question. This is a continuation of a job position we already have funded, is that correct?

There being no objections, the rules were suspended.

ADAM P. ROVERSI, Housing Director: This is Adam Roversi, the Housing Director. Correct, I believe this is the fifth or sixth year that we have received this grant from the federal government and it funds all of one (1) position at the Housing Agency and a portion of another. There are two (2) staff members who work with the Housing Choice Voucher Family Self-Sufficiency (HCVFSS) program.

Councilmember Cowden: Okay, thank you. I think it is an excellent program. I just want to acknowledge its continuance and thank you.

Council Chair Kaneshiro: Are there any further questions from the members?

There being no objections, the meeting was called back to order, and proceeded as follows:

(No written testimony was received and no registered speakers requested to testify regarding this agenda item.)

The motion to approve C 2020-203 was then put, and carried by a vote of 6:0:1*.

Council Chair Kaneshiro: The motion passes. Next item.

C 2020-204 Communication (08/05/2020) from the Executive on Aging, requesting Council approval to receive and expend Federal funds, for the third, fourth, and fifth allotments in the amount of \$30,725.00 for Fiscal Year 2020 (total amount of funds including the previous approved awards is \$39,517.00), and to indemnify the State Executive Office on Aging, for the Nutrition Services Incentive Program (NSIP) provision of congregate and home-delivered meals.

Councilmember Kualii moved to approve C 2020-204, seconded by Councilmember Chock.

Council Chair Kaneshiro: Are there any questions from the members?
Is there any discussion from the members?

(No written testimony was received and no registered speakers requested to testify regarding this agenda item.)

The motion to approve C 2020-204 was then put, and carried by a vote of 6:0:1*.

Council Chair Kaneshiro: The motion is carried. Next item.

C 2020-205 Communication (08/05/2020) from the Director of Finance, transmitting for Council consideration, A Bill For An Ordinance to amend Chapter 5A of the Kaua'i County Code 1987, as amended, relating to real property tax and requirements for the home exemption.

Councilmember Kualii moved to receive C 2020-205 for the record, seconded by Councilmember Chock.

Council Chair Kaneshiro: We will be taking this item later today as a Bill.
Is there any discussion from the members?

(No written testimony was received and no registered speakers requested to testify regarding this agenda item.)

The motion to receive C 2020-205 for the record was then put, and carried by a vote of 6:0:1*.

Council Chair Kaneshiro: The motion is carried. Next item.

LEGAL DOCUMENT:

C 2020-206 Communication (07/15/2020) from Troy K. Tanigawa, Acting County Engineer, requesting Council acceptance of a gift of land and approval of the corresponding Dedication Deed, from Līhu'e Court Townhomes Corporation to the County of Kaua'i, for a non-taxable road or right-of-way, located at the eastern end of Hoala Street, Līhu'e, Hawai'i, Tax Map Key (TMK) No. (4) 3-6-003:050.

- Dedication Deed

Councilmember Kuali'i moved to approve C 2020-206 with a thank-you letter to follow, seconded by Councilmember Chock.

Council Chair Kaneshiro: Are there any questions from the members on this item? Is there any discussion from the members?

(No written testimony was received and no registered speakers requested to testify regarding this agenda item.)

The motion to approve C 2020-206 with a thank-you letter to follow was then put, and carried by a vote of 6:0:1*.

Council Chair Kaneshiro: The motion is carried. Next item.

CLAIMS:

C 2020-207 Communication (08/06/2020) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Jason P. Same, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2020-208 Communication (08/07/2020) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Normandie Yadao, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Kuali'i moved to refer C 2020-207 and C 2020-208 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Chock.

Council Chair Kaneshiro: Is there any discussion from the members?

(No written testimony was received and no registered speakers requested to testify regarding these agenda items.)

The motion to refer C 2020-207 and C 2020-208 to the Office of the County Attorney for disposition and/or report back to the Council was then put, and carried by a vote of 6:0:1*.

Council Chair Kaneshiro: The motion is carried. Next item.

COMMITTEE REPORTS:

PUBLIC WORKS & VETERANS SERVICES COMMITTEE:

A report (No. CR-PWVS 2020-02) submitted by the Public Works & Veterans Services Committee, recommending that the following be Received for the Record:

“PWVS 2020-02 – Communication (07/06/2020) from Committee Chair Kagawa, requesting the presence of the Acting County Engineer, to provide a briefing on concerns related to the Solid Waste Division’s overtime and the managerial efforts being made to reduce overtime costs,”

Councilmember Kualii moved for approval of the report, seconded by Councilmember Chock.

Council Chair Kaneshiro: Are there any questions or discussion on this Committee Report?

(No written testimony was received and no registered speakers requested to testify regarding this agenda item.)

The motion for approval of the report was then put, and carried by a vote of 6:0:1*.

PARKS & RECREATION / TRANSPORTATION COMMITTEE:

A report (No. CR-PRT 2020-01) submitted by the Parks & Recreation / Transportation Committee, recommending that the following be Received for the Record:

“PRT 2020-01 – Communication (07/07/2020) from Councilmember Cowden, requesting the presence of the Director of Parks & Recreation, to provide a briefing on the erosion damage occurring to the Ke Ala Hele Makalae multi-use path, including the location of current damage, anticipated damage, estimated repair and mitigation costs, future mitigation strategy, and respective timelines,”

Councilmember Kualii moved for approval of the report, seconded by Councilmember Chock.

Council Chair Kaneshiro: Is there any discussion from the members on this item?

(No written testimony was received and no registered speakers requested to testify regarding this agenda item.)

The motion for approval of the report was then put, and carried by a vote of 6:0:1*.

PLANNING COMMITTEE:

A report (No. CR-PL 2020-07) submitted by the Planning Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2794 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 10, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ENFORCEMENT, LEGAL PROCEDURES, AND PENALTIES,”

Councilmember Chock moved for approval of the report, seconded by Councilmember Kualii.

Council Chair Kaneshiro: Is there any discussion from the members on this item?

Councilmember Cowden: This is coming up later, right? Bill No. 2794.

Council Chair Kaneshiro: Yes, for second reading.

(No written testimony was received and no registered speakers requested to testify regarding this agenda item.)

The motion for approval of the report was then put, and carried by a vote of 6:0:1*.

PUBLIC SAFETY & HUMAN SERVICES COMMITTEE:

A report (No. CR-PSHS 2020-03) submitted by the Public Safety & Human Services Committee, recommending that the following be Received for the Record:

“PSHS 2020-02 – Communication (07/24/2020) from Committee Chair Cowden, requesting the presence of the Housing Director, the Director of Parks & Recreation, the Chief of Police, the Emergency Management Administrator, and the Executive on Transportation, to provide a briefing regarding “Hale Kōkua” initiatives to assist the houseless and emergency shelter resources,”

Councilmember Kualii moved for approval of the report, seconded by Councilmember Chock.

Council Chair Kaneshiro: Is there any discussion from the members on this item?

(No written testimony was received and no registered speakers requested to testify regarding this agenda item.)

The motion for approval of the report was then put, and carried by a vote of 6:0:1*.

COMMITTEE OF THE WHOLE:

A report (No. CR-COW 2020-18) submitted by the Committee of the Whole, recommending that the following be Received for the Record:

“COW 2020-07 – Communication (07/10/2020) from Councilmember Kagawa, requesting the presence of the Mayor and the Managing Director, to provide a briefing to discuss what each County department/agency is doing to address pension spiking,”

Councilmember Chock moved for approval of the report, seconded by Councilmember Kuali'i.

Council Chair Kaneshiro: Is there any discussion from the members on this item?

(No written testimony was received and no registered speakers requested to testify regarding this agenda item.)

The motion for approval of the report was then put, and carried by a vote of 6:0:1*.

Council Chair Kaneshiro: The motion is carried. Next item.

RESOLUTIONS:

Resolution No. 2020-33 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE CIVIL SERVICE COMMISSION (*Jennifer Carter*)

Councilmember Kuali'i moved for adoption of Resolution No. 2020-33, seconded by Councilmember Chock.

Council Chair Kaneshiro: Is there any discussion from the members on this item?

(No written testimony was received and no registered speakers requested to testify regarding this agenda item.)

The motion for adoption of Resolution No. 2020-33 was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Cowden, Evslin, Kagawa, Kuali'i, Kaneshiro	TOTAL – 6,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1*,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes.

Council Chair Kaneshiro: Next item.

Resolution No. 2020-34 – RESOLUTION APPROVING A STATE BILL RELATING TO REGISTRATION OF VEHICLES FOR INCLUSION IN THE 2021 COUNTY OF KAUAI LEGISLATIVE PACKAGE AND THE 2021 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE

Councilmember Kuali'i moved for adoption of Resolution No. 2020-34, seconded by Councilmember Chock.

Council Chair Kaneshiro: This is an item that we have been putting on the Hawai'i State Association of Counties (HSAC) package for a few years now and I will have Councilmember Chock give us a brief explanation on it.

Councilmember Chock: Thank you, Chair. I have invited administrative representatives who are part of the Abandoned/Derelict Vehicle Task Force, this particular item has come as a result of their work in trying to address the transferer and transferee challenges that we have experienced. This is one (1) of three (3) packaged items; two (2) more that I intend to introduce come the September 9th meeting to address, holistically, some of the challenges. The next two (2) on September 9 are the ones that we have done in previous years. This one as you know, we have tried to introduce a bill, it was received, in order to readdress it and some of the concerns. Chief Todd G. Raybuck and Assistant Chief Mark N. Begley, Jenna Tatsey, Reiko, and everyone else on the Task Force has been working towards this Resolution. Chair, if you would like them to provide what we are proposing, I would be open to that.

Council Chair Kaneshiro: Yes. Chief Raybuck, were you going to give an overview of this?

There being no objections, the rules were suspended.

TODD G. RAYBUCK, Chief of Police: *Aloha*, Chair Kaneshiro and members of the Council. Chief Raybuck, for the record. First and foremost, I just want to send my appreciation to Mayor Derek S. K. Kawakami for assembling the Task Force to deal with the abandoned and derelict vehicle problem here on Kaua'i, and of course, Councilmember Chock for chairing that Task Force and for all the work he helped to coordinate to get this Bill to where it is today. As he mentioned already there were some key partners in this Task Force that assisted us in coming together with some resolutions to try to resolve the gaps and the issues that we see and believe are causing some of the abandoned and derelict vehicle problems on the island, that would be Finance Director Reiko Matsuyama, Nicholas Courson who was a key architect in helping us draft this legislation, the other committee members—including from the Office of the County Attorney, Jenna Tatsey, and then of course Assistant Chief Mark N. Begley, who oversees the patrol operations and really has worked hard with his team to focus in on, address, and remove the abandoned and derelict vehicles that we are seeing. I will allow Assistant Chief Begley to opine and speak, if necessary, or if anyone has questions for him. Excuse me, but I support this proposal. I think it will help us close the gap that occurs when there is a transfer of a vehicle from the seller to the buyer. I just was out with patrol last week and on several occasions, we did registration checks on vehicles, which came back with transfer in process, which means we are unable to know who really is the registered owner of that vehicle or who is the responsible party financially for that vehicle. This bill will help us close that gap and give law enforcement the ability to hold people accountable when they do abandon or drop off their vehicles, as well as an officer's safety issue, so we know who the registered owner of the vehicles are. There are many other positives in this Bill, which are included in the proposal that I think will assist us. If there are no questions for me, I will open the floor for Assistant Chief Begley to provide any testimony he may have and I just want to say thank you for hearing us this morning.

Council Chair Kaneshiro: Thank you. Mr. Begley, did you have anything to add?

MARK N. BEGLEY, Assistant Chief: I am available to answer any questions that any Councilmembers may have.

Council Chair Kaneshiro: Okay.

Mr. Begley: I think the Bill speaks for itself. I think the Councilmembers are familiar with the issues that have been occurring and how this Bill proposes to address those issues.

Council Chair Kaneshiro: This Bill is basically going to have...if you sell a vehicle you have to go into the County building and both the seller and the buyer are going to have to sign the papers in front of a County employee and if they cannot do that, then they are going to have to certify and notarize a form that they are the actual

buyer or seller. Again, I think in the past anyone can put any name, any information on the registration, when they pass it over to someone new, then we start losing track of whose vehicle it really was or where it was. Councilmember Kagawa.

Councilmember Kagawa: Thank you, Assistant Chief and Chief. Last session we had the work that Councilmember Chock, Kaua'i Police Department (KPD), and the Finance Department did in our HSAC package; we had two (2) items from Kaua'i, the other one was the lifeguard tort liability, which we continued to try to get done for our lifeguards, but the problem came when...on Kaua'i, we saw the problem and put together the Task Force. We did the work, we made a suggestion, and that was from our HSAC package that the other counties agreed to follow our language, but I guess when it went to the Legislature, Honolulu Police Department (HPD) started chiming in with their Finance Department and other counties put in other suggestions, which made it kind of frustrating, because then there was the Legislature trying to figure out, who they were going to listen to? Are they going to listen to Kaua'i? Are they going to listen to Honolulu? In the end nothing was done. Are there any plans to get HPD to jump on board, so we do not run into that same problem where they are going to basically...when it reaches the Legislature, they are going to sabotage our solution by saying, "Maybe, this will be difficult to do." So I am thinking, if we go to HPD—the main one is Honolulu, if we can work through them, they have the most representatives and get them to buy in on basically, our County's legwork. We are the County that is saying, "This is the way, we think, we may be able to solve this problem." Like I said, the last legislative session, it was a short session too, so they did not complete what they were trying to do, but is there any way we can help coordinate with O'ahu and get HPD on board, so we do not have our idea sabotaged when we are the ones that actually put in the time in trying to figure out how we can fix this problem that has been plaguing us for a long time?

Mr. Raybuck: Chief Raybuck, for the record. Councilmember Kagawa, thank you very much for bringing that up. I will take responsibility for that gap in communication with my fellow county leaders in law enforcement, so I will reach out to Honolulu Police Department, Chief Ballard and I, as well as Deputy Chief John McCarthy, we speak frequently on other matters, so I will reach out to them and address that and see if I can get them to support our proposal. I appreciate you recognizing all the members of the Task Force that put in a lot of work and effort to try to resolve this and I will do better at trying to communicate with my partners to avoid a similar situation in this next legislative session.

Councilmember Kagawa: No apology is necessary. I think we came up with what we thought would fit and I was surprised that the Legislature went through that and I did not know they would go that far and ask HPD for their thoughts, and I guess they did not like or agree with what we proposed, but it is frustrating because Honolulu did not do the legwork like you folks, and you had your group look into it with Finance and figure out where the problems were, and how to fix the problems, but when

it goes to the Legislature, they are asking HPD on the fly, "How do you feel about these changes?" It is frustrating that it happened that way, because I think you folks did do it right, you did put in the time and effort, and every county is different. I wish we could allow Kaua'i to experiment on our end with our changes, but I guess that is not how the State law works. Anyway, it is frustrating. What I am providing is just a suggestion, as far as, how can we get this passed at least in some form, that we can apply changes and make improvements; that is what I am looking for. Again, we had COVID-19 shorten the session. Thank you for taking that suggestion and checking to see if Chief Ballard can jump on this one, because if she does not have a better plan, rather than to just criticize bits and pieces of our intensive work, it is just a frustrating situation.

Council Chair Kaneshiro: Are there any questions from the members on this item?

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Is there any final discussion? Councilmember Chock.

Councilmember Chock: Thank you, Chair. I wanted to give a little bit of background. I am going to be requesting as our Task Force has met since March, we actually have a holistic approach to...this is just one piece; which are the legislative items and policy changes that we are wanting to affect change on, but there are other action items that the Task Force has suggested and created that we are working towards. Some of it is on a local ordinance towards our towing companies and some of that regulation needs. As the Task Force wraps up this segment to have an item that we can all be made aware of the work they are doing and also be able to chime in and give suggestions to it. I have already reached out to our Kaua'i Legislative Delegation, so that we can get some support, if we can get it to HSAC in our Kaua'i Legislative Package. Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I am going to support this. When the Task Force is looking at other elements, I made the suggestion a number of times—I am not sure if it is landing—that when people have a vehicle that maybe has three (3) or four (4) years that it has been sitting in a yard, that registration keeps piling up, so one of the reasons it gets abandoned somewhere is there is one thousand two hundred dollars (\$1,200) worth of fees associated with it. I think we would save money if we had in the Task Force suggestions, to release the cost of the years of an abandoned vehicle on registration. I have not received any feedback, I am not sure if that has been heard. So I am putting it on the record, that is my recommendation.

Councilmember Chock: If I can, Chair.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: It has been heard, there are means and ways for it to be addressed, that we can present at the Task Force meeting.

Council Chair Kaneshiro: Councilmember Kagawa.

Councilmember Kagawa: I just want to thank Councilmember Chock for taking a ball on this way back when we saw the problem and Councilmember Chock put it upon himself to meet with various departments, especially KPD and try to solve this "tough nut." I want to thank KPD for all you folks do. The derelict vehicle problem has improved tremendously over the years, when we hired our coordinator. It comes where the supply is much more than we can handle. It is crazy how many vehicles we have out there. The cost is so high. All the hoops you need to jump through in order to do it. I remember talking candidly with Chief and he said, "Check out this car on the side and check it out a few days later, you will see things missing." But our hands are tied by State law, that we cannot remove it; it is frustrating. They put in a lot of time on these abandoned cars by people who are not considerate of government and the rest of the people of Kaua'i who take care of their *ōpala*, when they do not want it; it is not fair, it is irritating, it is an eye sore, and it takes away a lot of time from KPD when they have a lot more other important things to take of, so whatever we can do going forward with the work that Councilmember Chock, the Chief, and Finance, are doing is all worth it, because we need to get through all the red tape, then we can truly find the solution, because right now, with their hands tied, it is overwhelming. There certainly is a solution, it is just very difficult...then you need to work with the Legislature, which is another bit of craziness that is very difficult to understand at times, but again, without the hard work and effort, you will not see significant change, so I appreciate all of you for all that you are doing to try and cure this difficult problem.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Thank you, Chair. I would like to echo some of that. I think over the last—just my short term here—two (2) years, that the abandoned car problem has improved so much, just in the volume of E-mails that we were all getting about abandoned cars and what we can all see on the roads, has gotten better in both regards, so I appreciate the hard work you folks are all doing Chief Begley, Chief Raybuck, and everyone else on your folks' team. Certainly, also thank you to Reiko, Councilmember Chock, and the rest of the Task Force for working hard on solutions here. It has been said, I think this will add a little bit of hassle when we have to sell a car, but at the end of the day, if this passes, that it will end up really saving taxpayer's money and improving our environment here, if it is not weak enough, hopefully, we can hold people accountable for abandoned vehicles. I hope the State acts and if it is not

this, then we have to do something here, so I appreciate you folks taking the steps in this direction.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: I am a little lukewarm. I am going to support this and trust that the committee finds this to be the right solution. I do recognize that we are creating a little bit of a...well, Councilmember Evslin called it "hassle," but hardship, if you will, on some folks having to either take the time to go in to the Department of Motor Vehicles (DMV) or even to pay for a notary, so one hundred percent (100%) of the people selling their cars will have to do this, because a small percentage of people have not been doing the right thing. I wish there was a way and I think for some people it does work out this way, where until the buyer fully reports the seller name; a legitimate name and address, or what have you, that the buyer still be responsible, I am sorry, the seller; until the seller fully reports documents with DMV, the buyer, he/she are still responsible. I think there have been people, even after selling a car, when it has been trashed and put on the side of the road, they ended up being charged for the towing or whatever, because the vehicle was identified to them and not to the person they sold it to, because they did not necessarily fully inform. Let us recognize, it does create a little bit of a hardship for a lot of people, paying for a notary or having to take the time, sometimes, maybe taking time off from work, but I will support.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: My discussion is a little bit of a follow-up on what Councilmember Kualii just said. When I do talk to people who have sold a vehicle and somehow both ends of it do not get completed and they get held accountable for the abandoned vehicle or the problem that has happened with the car; it probably would find it was really well worth their time to spend eight dollars (\$8) or fifteen dollars (\$15) on a notary and go in and have it done and no longer be held accountable, so I agree it is a little bit of extra work, but I think for those who are selling the car, it is very worthwhile to take that time, such that they are no longer held accountable for something three (3) years down the road in the life of that car.

Council Chair Kaneshiro: Is there anyone else? If not, I completely agree. Oftentimes, we hear about the derelict vehicle problems on the side of the road, a lot of times the public will say, "Why do you not follow the registration and charge it to the people?" I think what it comes down to is the amount of time that we spend having to try and follow all the registrations, then you get to a dead-end where someone left information that was not correct; it just was not worth the County's time to be following all those loose ends. I think now, if this was to pass, we would have a much easier way of finding out who was the one that actually dumped the vehicle. That is the whole point of this, just to hold the correct people accountable. I know we all want to see our

island beautiful, we all talk about keeping our island clean, but unfortunately there are people that are willing to just dump vehicles all over the place. I think this will be a big deterrent to people dumping vehicles, so I am hopeful that the State can see that also and see the need for us to do it. We have been spending—I do not know how much money—hundreds of thousands of dollars on towing fees to get rid of vehicles. If we can just cut that money out by having people go and do that extra step of showing up at the County and registering their vehicle there, we would save the County at least, two hundred thousand dollars (\$200,000) off the bat every year, dumping vehicles, so it is going to be a cost saver for us also, as far as towing fees, so I am in approval of this. With that, roll call vote.

(No written testimony was received and no registered speakers requested to testify regarding this agenda item.)

The motion for adoption of Resolution No. 2020-34 was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Cowden, Evslin, Kagawa, Kuali'i, Kaneshiro	TOTAL – 6,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1*,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes.

Council Chair Kaneshiro: Next item.

BILL FOR FIRST READING:

Proposed Draft Bill (No. 2803) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Home Exemption Requirements*)

Councilmember Kuali'i moved for passage of Proposed Draft Bill (No. 2803) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for September 23, 2020, and referred to the Finance & Economic Development Committee, seconded by Councilmember Chock.

Council Chair Kaneshiro: Reiko, if you want to give a broad overview on this Bill.

(Councilmember Kagawa was noted as not present.)

There being no objections, the rules were suspended.

REIKO MATSUYAMA, Director of Finance: Good morning. Reiko Matsuyama, Finance Department. What we found in our Real Property Tax rules is that basically, we are on the most lenient County there is in terms of qualifying for a homeowner's exemption. What we have are rules that say one thing, which the Ordinance does not really capture, so what we wanted to do was make sure that we are capturing what we need to do in the Ordinance and that it is also in the rules. The attorneys have told us that the rules cannot be stronger than the Ordinance, so what we want to do is place these restrictions within the Ordinance. A few things that I would like to point out is, right now, in the rules, it states that you have to be on island occupying your primary residence for one hundred eighty-one (181) days; this is the lowest number of days throughout the State. What we want to do is to increase that to two hundred seventy (270) days, so basically from six (6) months to nine (9) months that you have to be residing on-island in order to qualify for the homeowner's exemption. The second thing it does is require you to file a Hawai'i State residence income tax return. Basically, you have to come here and kind of "earn your keep," I guess—you cannot come here and automatically qualify for home exemptions, you need to be filing income taxes in Hawai'i in order to qualify for that. In going through the Bill back and forth with the Real Property Tax Division, we were talking about whether or not we will allow it for delinquent real property taxpayers. You folks know that the homeowner is very lucrative; you get the lowest tax rate that we offer, you get the one hundred sixty thousand dollars (\$160,000), at least, off of your assessed value, and you have a three percent (3%) assessment cap. The assessed value cannot move more than three percent (3%) year-to-year, so these things are worth some money for taxpayers, and some taxpayers that we saw are kind of in a downward spiral already...they really need to get into this program—these are local residents that I am talking about—in order to get back on their feet, so what we added in there was, "Yes, okay, he is delinquent, but they have to sign a payment plan or payment agreement with the County in order to try to prove that you are going to catch up." So those are the three (3) things that are embedded in this Bill that are the substantive changes. I believe Mike Hubbard is on the line, if you folks have administrative questions on how this is going to work on real property assessment, but I can assure you that in going back and forth with them...and this is one thing that basically, from my day one, they were telling us that we need to do this. So I think this is worthwhile. It will reinforce the intent of the homeowner's exemption, in that this is really for *kama'āina* residents, it is for you and I, that live here and own homes, and live in our homes. I think it is a good thing and I hope you support it.

Council Chair Kaneshiro: Thank you for that. Are there any questions from the members? Councilmember Chock.

(Councilmember Kagawa was noted as present.)

Councilmember Chock: Thank you, Chair. Thank you, Reiko. I know you have been trying to get to this and have worked on this for a while. My question is about the stipulation of the income tax. The reason why I ask is, I know that different variables happen for different residents. For instance, some people do not file their income tax annually or they delay it, so are there any other means that you see across our County to validate other than the income tax process?

Ms. Matsuyama: Just to be clear, you just have to file it once.

Councilmember Chock: Okay.

Ms. Matsuyama: You do not have to file it ever again, unless you are trying to go for the income exemption, then you have to file for that annually.

Councilmember Chock: So it would only apply in that case, it would be an issue only if, for instance, it was a new resident, right? Coming from a different place and not having the tax filed on time or not in our jurisdiction, correct?

Ms. Matsuyama: Correct.

Councilmember Chock: Thank you.

Council Chair Kaneshiro: Are there any other questions from the members? Councilmember Evslin.

Councilmember Evslin: Thanks, Reiko. The Bill is great and I fully support it. I asked this in our meeting, but maybe you could just explain it to the public, how you would verify or audit existing people within the home exemption—is it only going forward or are you going to try and figure out who currently, with the exemption, is living here with less than two hundred eighty (280) days?

Ms. Matsuyama: As the Bill is written, we can go back and try to find people who may be within that threshold of one hundred eighty (180) days. We would do that through the prior use surveys. We have use surveys and they have check marked; “I rent this partially during the year,” or “I am here one hundred eighty-one (181) days,” so we can screen it. We just sent out new use surveys for the ones that we might think are on the edge and do it that way, but we can go back and pick people out or make them reapply.

Councilmember Evslin: Thank you.

Council Chair Kaneshiro: Are there any further questions on this?
Councilmember Kagawa.

Councilmember Kagawa: Can we go more than two hundred seventy (270)?

Ms. Matsuyama: Two hundred seventy (270) is what O'ahu and Maui both do, Hawai'i Island has it at two hundred (200). If you go more than that...you do not want to go three hundred sixty-five (365) days, because then people cannot take a vacation, so you do not want to go too much higher, but this is what we thought would be comfortable and passable, something that is not going to spur a lot of controversy.

Councilmember Kagawa: You said two hundred seventy (270), who has that amount? Maui?

Ms. Matsuyama: Maui and O'ahu.

Councilmember Kagawa: What is the reason why three hundred sixty-five (365) days are not good?

Ms. Matsuyama: Three hundred sixty-five (365) days, basically means that you would not be able to take a vacation. You would be bound to your home the whole time.

Councilmember Kagawa: What is wrong with that? Just kidding. I am good.

Council Chair Kaneshiro: Are there any further questions from the members?

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Is there any final discussion from the members? Councilmember Kagawa.

Councilmember Kagawa: Yes, I will support it. I do not typically care what Maui, O'ahu, and Hawai'i Island does as far as policy, because the cost of living on Maui and O'ahu is worse than here and it is hard to manage that, but it seems like Kaua'i is the worse...but I think Maui and O'ahu are more costly places to live regarding the cost of housing and everything. I think if that is the most we can go with allowing our local residents to go and take vacations when COVID-19 goes away, I think it is reasonable. I am definitely in strong support, being that we are going to go a lot higher than our current one, which is at one hundred eighty (180), right now. I am happy, so thank you.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: Thank you, Chair. Sorry, I do have one more question.

There being no objections, the rules were suspended.

Councilmember Chock: I was looking on the low-income tax credit section, there is one change there, just to broaden the criteria or allow for discrepancy from the Director—I just am curious as to where the direction is going for that section.

Ms. Matsuyama: I am sorry, can you repeat the question?

Councilmember Chock: The low-income tax credit section, page 6, “Director of Finance may adopt rules and prescribe forms to implement or adopt rules...” it just says that you have some leniency in qualifying for the exemption of that section, I am just curious, as to why that changed for that area.

Ms. Matsuyama: That section is for me to create steps (inaudible)...once you folks pass this, we can amend the rules substantially and this gives me steps to do that.

Councilmember Chock: Okay.

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I fully support the intention of this Bill. I think it is really important right now, especially as we are seeing this trend from the big cities moving to rural locations and we are seeing that robustly coming here, it is not much more than a small speed bump to discourage Kaua‘i as an investment place. I do support the two hundred seventy (270) days as opposed to three hundred sixty-five (365) days, because people might need to go care for an ailing parent or family member, and there are often reasons people might have to go for an extended period of time, but this keeps it from being a second home, which I think is so important. I was looking...it might be somewhere else or I missed it...I am sure there must be an exemption for military deployment, is that correct? If someone is in the National Guard and had to go away for six (6) months, this would not impact them, is that correct? Where is that? Is that here or somewhere else?

Ms. Matsuyama: It is written in our rules. I am not sure if it is codified here.

Councilmember Cowden: Okay, but we would know for sure.

Ms. Matsuyama: Yes.

Councilmember Cowden: Military deployed people would not be punished somehow with this two hundred seventy (270) day requirement, but other than that, as long as they are out of that criteria, I would say that is an excellent step.

Ms. Matsuyama: Yes.

Council Chair Kaneshiro: Is there anyone else? Councilmember Evslin.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Evslin: I fully support it. I appreciate Finance moving in this direction. As we have heard from Kim in the presentation a few times, homestead is the golden ticket here and I think it is important to make the criteria strict to get it; you should be living here, contributing as part of our community and economy, and paying State local taxes to the greatest extent possible, so I do think two hundred seventy (270) days is the right call. I appreciate Finance closing in on the loophole here and I fully support the Bill.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: I want to thank Finance also for bringing this forward. I do support the Bill. I sort of agree with Vice Chair Kagawa, and I would also be supportive of even making it a little bit longer. I do not think we need three (3) months a year for vacation. I think if there were special circumstances, like caring for a sick family member for longer than a few months, that there would probably be an exception for them, right? Would not there? I am assuming that there would be, but I am supportive.

Council Chair Kaneshiro: Okay, is there anyone else? If not, I am supportive of the Bill. Again, homestead tax rate is the lowest tax rate you can get on-island, it is for people that are living in their home full-time or majority of the year, it is the tax rate that all of us get and it is a benefit. Again, it is such a big tax break, this is usually the tax class that we try to protect the most. Obviously, it is going to be something that people will look at to try and take advantage of and I think requiring more days and requiring the Hawai'i State income tax return, are just a few more means to catch anyone who is trying to take advantage of the system. This is really for people that are living here permanently in a house and that is the tax class that we have always tried to protect; people who are living here, so I am in favor of it. Councilmember Kagawa.

Councilmember Kagawa: Along that line, I am sorry, after jumping in after we are supposed to be done, but I think the three dollar (\$3) rate, it is a three dollar (\$3) per thousand benefit, which amounts to a lot when you are talking about a house, so we are taking care...this is why a resounding voice, if you go out into the community saying, "You folks need taxes, well tax the ones that can afford it." Tax the folks from the mainland that are living here who have a lot of money. It is not labeling, it is true. A lot of them have a lot of money, have the means to pay, a lot of them are the ones that live here six (6) months and they golf at the *kama'āina* rate at the golf course, which is very cheap. They can afford to pay the regular rate and people from the golf course tell me, "Six (6) months is not enough, they register to vote and they get to play for a really cheap rate at our Wailua Golf Course, when they are not a full-time resident." Again, there are some cases where they are not, but you cannot make laws to please every single case that you bring up and to me, this is a fair case for local residents when they ask us, "Tax the folks that can afford it, do not raise our taxes, we are already poor, we are struggling, we have kids living in our house trying to save to buy a house at five hundred thousand dollars (\$500,000)." I think this is the right step. I appreciate Mayor Kawakami for taking this step. It has been a long time since we have seen this kind of step from a mayor...I am serious, this is a step and I appreciate Mayor Kawakami and his Administration for coming forward, seeing a problem that they can fix...it is not going to solve one hundred percent (100%) of everyone's problem when it is taxed; it is broad-based. Sometimes you will hit some...it may be unfair to, but as a whole, I think this is what our local residents have asked for and I appreciate the Administration taking this step in this direction in trying to get more revenue from those who are not living here full-time like a lot of the local people do. That is my honest opinion, thank you.

Council Chair Kaneshiro: With that, I just found out there is going to be a housekeeping amendment to amend the Bill. It is not ready yet, so let us move on to our next Bill and we can come back to this. Staff is going to prepare that housekeeping amendment before we move it on to public hearing. Clerk, can you please read the next item.

There being no objections, Bill No. 2794 was taken out of order.

BILL FOR SECOND READING:

Bill No. 2794 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 10, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ENFORCEMENT, LEGAL PROCEDURES, AND PENALTIES

Councilmember Kualii moved to approve Bill No. 2794 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Kagawa.

Council Chair Kaneshiro: Are there any questions on this item? If not, is there any discussion from the members? Councilmember Cowden.

Councilmember Cowden: This is another one of the zoning enforcement Bills that ties into the ten thousand dollars (\$10,000) per day, per violation with a lien put in with the Bureau of Conveyances, if there is a problem. I oppose this Bill. I understand that there are some intentions to do it and it is convenient to have complete immediate obedience from our citizens. I have two (2) amendments for this for both Chapter 8 and Chapter 10, that would separate it, so that we do not go after people that have very minor, in terms of the impact on everybody, a building change on their building, when asked a year ago, it was estimated that more than half of our properties are out of compliance at some level. It has been made clear with the exception of a few, most are not pursued, but I do not want this to pass, because when it does pass it might be very difficult to pass those next two (2) that I would like to be bringing out, so when I listened to Vice Chair Kagawa speaking about the importance of keeping our generational residents or long-term residents on the island; bills like this can be utilized as a weapon in the future even without ill-intention to remove neighborhoods of people. This is a dangerous Bill to have this much capacity without holding our current Administration with the intention of hurting, we could easily remove people from our community and as we start replacing our community, which is underway now, has been underway, but is accelerating, this is a clear vulnerability and property values are going up, rental units are going up, especially that people are offering over asking. This ties into the last issue, but I warn everyone, my colleagues, when we pass this, if I do not succeed at getting these other two (2) amendments put out in the future and passed, we leave these communities, that I am hearing are so important to all of us, but being very specifically mentioned, we leave them vulnerable to predatory or retaliative strikes. In the future it could come hard and fast and I think this heavy hand of a Bill is too strong. I understand it is what they call a housekeeping measure to be consistent with Chapter 8, which is everyone; Chapter 10, this one is for special management areas, but I want it to stay inconsistent, so that we have to change both and we do not allow this to stand where we can force people out of their homes, businesses, and financial viability. We have enough of that happening right now and we are vulnerable and I think this is a poor choice. I do not support it.

Council Chair Kaneshiro: Councilmember Kagawa.

Councilmember Kagawa: I would like to get more details, but I guess, we are prevented from disclosing, however, I think when I go back and I look at the years I have been serving with Councilmember Chock; we have been here a long time and we had issues when Managing Director Michael A. Dahilig was in office and tried to take action against what he considered illegal Bed and Breakfasts (B&Bs) and Transient Vacation Rentals (TVRs). The resounding voice that I got was that...if there is any way you can help to get them to comply, do it. That stiff fine concerned them, a lot of them contested it, and a lot of them ended up prevailing. I believe the Planning Department learned the lesson there to be careful and I trust Ka'āina's judgement in being careful about being heavy-handed, because we saw in that instance, when you are heavy-handed and you lose, you achieve nothing and they are operating and have no means to stop them anymore. Compliance is always the best way, but there are times when obviously they are blatantly not following rules of the County and still operating

and you have to have heavy measures in order to get them to stop. You fine them one hundred dollars (\$100) a day, but they are collecting one thousand dollars (\$1,000) a day in rent; is that enough to make them stop? So, it really depends on the cases, it depends on the Planning Director's judgment and I think our Planning Director has shown that he is not making this type of rash decision. So I have seen instances that you are talking about and it is difficult for me to say, "I agree," just because I have not heard all the details. I want to support this in saying that we need to have leverage against people who do not follow rules and our public wants us to have fair, equal ground for everyone. If you follow the rules you are fine, if you do not follow the rules then the Planning Department can take action. You need to have some type of strong consequence for people who do not follow the rules and this is pretty strong.

Council Chair Kaneshiro: Councilmember Chock.

Councilmember Chock: Chair, it sounded like there were amendments. I would love to be able to put those on the table so that we can work through this. If there are many, I would consider going back to Committee, especially if we are looking at two (2) duplicate sections here, you know what I mean? If we are going to change...we can agree to changing one (1), we probably should change both, but I am curious to hear what those are and if our Planning Director agrees with it.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I have been working with Planning and the County Attorney and my amendments have to go back before the Planning Commission, but what it separates out is structural things, so if your chicken coop is wrong or your awning is a little wrong, or the kitchen is not right, it is a structural challenge versus a commerce challenge, where you are renting your house out with a zoning violation. So if it was something like vacation renting the property, that would go into a different class where it would be "as-is." The other one would be a tiered structure, if it is that, so I was not allowed to bring it out now and I asked if we could defer this and was told, "No," that this would have to pass first. I do not understand why. I do not have a question on the ethics of our Planning Director Ka'aina Hull. He has shown us that there has been no abuse to the system towards the area that I am concerned about, but if we have another election and we have different people and it is sitting there, the time when we will notice it is a problem is after it is already misused. There is a vulnerability right now, when there are family differences or neighborhood differences, and even yesterday, I will not say where, but there was a place where the police were called, with neighborhood behavior pushing a wealthy, taking away rights from the community. This type of Bill for both Chapter 8 and Chapter 10, leave us deeply vulnerable for that and I do not think it is even questioned, it is that it has to go back to Planning and it is more convenient to do this now and not later, but I do not have faith that later comes.

Council Chair Kaneshiro: So from what I am hearing as far as moving forward, I think we vote on this Bill, if Councilmember Cowden has changes to the Bill that gets passed, then you will make those changes as a separate Bill, have it go through the Planning Commission, and it will come back here and we would vote on it. However that form takes, I think would be the best route, just from hearing the comments.

Councilmember Cowden: Yes, I do not. I do not at all, but thank you.

Council Chair Kaneshiro: Okay. I am thinking that this Bill is most likely going to pass here. If the votes are there, I do not want to have to defer it or put it back into Committee and if there are changes you want to make, then you go through that process and it will come back here and everyone will get to vote on it again, if we feel those are the changes that need to be made.

Councilmember Kualii: Is Ka'āina here?

Council Chair Kaneshiro: Scott, I think Ka'āina needs a Teams invite.

Councilmember Kualii: But maybe staff can answer this.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: If I am understanding this correct, staff, this Bill is housekeeping because; one, it is changing the name from special development plans to community development plans, and that is just because in the new General Plan that is how they talked about the plans. They do not call it Special Development Plans anymore, they call it Community Development Plans. The other thing is all the new language that is underlined is instead of referring to Chapter 8 it is bringing it from Chapter 8 and putting in Chapter 10, right? So if that is correct, then this is purely housekeeping and all that will come into play for Councilmember Cowden's case, is that the concern of putting this in place, it already is in place. All that language already is in place in Chapter 8, so now it is duplicating it in Chapter 10, it is changing "Special Development Plans" to "Community Development Plans," then later if you want to bill to change Chapter 8 and Chapter 10, because you want to remove it all or do something different, that could be done later, but it is not creating anything new. That is why I am ready to move forward and support this.

Council Chair Kaneshiro: It is just making the language consistent.
Councilmember Chock.

Councilmember Chock: Thank you. I am also ready to move forward on it. Since we do have our Planning Director, Ka'āina, you have been working...thank you Councilmember Cowden, I appreciate the intent, I think to create some protective measures is also important, as well as giving our Planning Department the necessary tools, but I am sure you have already started to vet these potential amendments and I want to make sure that is moving in the right direction with our Planning Director. Planning Director, is that true? Have you folks been working together towards some amendments that we might see coming forth on this at a later time?

There being no objections, the rules were suspended.

KA'ĀINA S. HULL, Director of Planning: Thank you, Councilmember Chock. Yes, I have been working with Councilmember Cowden on some of her draft amendments and we are definitely open to them. From an enforcement side, there will be some concerns about...five (5) years ago the Council was pretty heavy with the

Planning Department in saying get your act together, get the enforcement program running, start moving in this direction, and so we definitely had a huge shift in how the enforcement is handled. Now with the way it works now, "Oh, you are enforcing too much, calm it down." So we are going to have to bounce back and forth, but the amendments that Councilmember Cowden submitted over to me, would definitely be substantial in there for not asking them to be put in this Bill to defer or delay this Bill, but we are open to a possible treatment program for certain types of accommodations at a future date.

Council Chair Kaneshiro: Are there any further questions?
Councilmember Kagawa, while the rules are suspended.

Councilmember Kagawa: Ka'āina, the reason you have these amounts in the Bill, like she mentioned, why does the chicken coop come up to ten thousand dollars (\$10,000)? But sometimes you could have a situation where the chickens are keeping the neighbor up every day, waking up too early in the morning crowing, then they say that is an illegal chicken coop you have. Then when you folks investigate because you are complaint-base, you tell them they need to remove the chicken coop. If the person refuses to remove it, you need to have leverage against them. That is why you have these numbers. You definitely do not want to fine the person ten thousand dollars (\$10,000), but at some point you have to enforce the law and without any teeth you cannot do anything and your inspectors are tied up. They would just be laughing at you. That is why you have these general ranges, but it is not like you are laying the ten thousand dollar (\$10,000) fine the first time you talk to them, right? It is all judgment and everything is not black and white. Every case is different and sometimes you will have immediate compliance and sometimes you will have those who play games with you folks, right?

Mr. Hull: Yes, absolutely, Vice Chair and to that point we have to use fine structuring viciously and very cautiously. When Councilmember Cowden did bring up her concerns, I thought they were valid concerns. I pulled up the numbers and in the past five (5) years; vacation rental and coastal development are our primary fine sources; those are the individuals that (inaudible) that do not come into compliance that we have to levy fines on them to get them into compliance. Outside of vacation rentals and coastal development, in the past five (5) years, we only issued two (two) fines that were over one thousand dollars (\$1,000). They actually (inaudible) those fines. Sometimes we use the ten thousand dollar (\$10,000) stick, if you will, as leverage, but we have never had to collect it, to get the violators into compliance without having to levy; it is used as leverage. Our point is not to be punitive with enforcement, it is to get these operations into compliance. If it is an illegal chicken coop, you need to get the chicken coop out of there. I think our program has been fairly successful off these cases, which is why I believe the system is working, the enforcement program is up and spinning, I think they are doing a great job, but I hear that there is concern from Councilmember Cowden, that perhaps with a new Planning Director or new Administration, you might become more dictatorial and draconian in your policy and that is a fair point, but I do not believe our program is at that point right now.

Councilmember Kagawa: Thank you. I appreciate it. I think what Councilmember Cowden is saying is you folks are already carrying out, but she points

out that the correction in the law would be clearer or more transparent, so I can see her point as well working with you folks. I look forward to whatever comes out, if it passes the Planning Commission, but I also understand if you folks want to keep it broad, because you are already doing what she is saying in reality and if there is a new Planning Director that may be it is time to put it in the books. Thank you.

Council Chair Kaneshiro: Councilmember Cowden, then Councilmember Evslin.

Councilmember Cowden: Director Hull, does the wording in Chapter 8, in any place in the zoning enforcement outline TVRs as the target?

Mr. Hull: In Chapter 8.

Councilmember Cowden: Yes.

Mr. Hull: The rental has specific enforcement parameters, yes.

Councilmember Cowden: But in this enforcement Bill, the ten thousand dollars (\$10,000) per day, per violation that we did a year ago, there is no stipulation of TVRs as being the target of that permit violation.

Mr. Hull: No, not specifically.

Councilmember Cowden: How many properties percentage-wise are out of permitted...we talked about this a year ago, you said over fifty percent (50%) are likely to be outside of permitting; they might have a problem.

Mr. Hull: Again, I would say that there is a fair amount of properties that may have small structures like a very small shed on the property that would be considered a zoning violation.

Councilmember Cowden: A roof change. The roof was changed and the awning is longer or wider so the footprint is bigger, that is a violation, correct?

Mr. Hull: If they did not get the associated permits, that would be a violation, but insofar, they need the setback for height permits, they would just come in and amend the existing zoning permit, which there is no fee involved in that, you are just amending the zoning permit. If they are put on notice, they would make proactive progress to rectify that violation by just getting the permit, not really doing anything, but just applying for the permit, then there is no fine involved.

Councilmember Cowden: If they needed to take off a room, they have to get a deconstruction permit, correct?

Mr. Hull: Yes, that is true. If there is no way for them to get the zoning permit, because say it violates the setback permit, which zoning is five (5)

feet, so that means there is probably no room, right on the property line, which is actually also a fire hazard...

Councilmember Cowden: I understand, but the thing is that this is discretionary, so I know right now we are not trying to do it. I am just going to make this one last point, because we have talked about this exhaustively together. Right now no one is doing this to people, it is not intentional. When it comes up, it is usually a divorce or when there is hostility, but right now, it is not a problem. I want to go on record that if four (4) years from now we have a problem where we are moving through neighborhoods and destroying existing neighborhoods that the community, the Planning Department, and the Council were well-warned, because this lays us out absolutely vulnerable to predatory problems and it could be overwhelming for the Building Division to be handling it; it could go up and down neighborhoods and gentrify them and change them. We see it happening in different places on the island. We had seven (7) out of eight (8) lawsuits fail from the County side that was targeted at these vacation rentals just in the last year and there is very much threats of class action lawsuit and we have to be careful and I think we really need to rethink this, so I am finished with saying it, but I am strongly saying, "Yes, I understand this is a housekeeping measure on a poor enforcement ordinance." I fought that last year and failed, six (6) to one (1).

Council Chair Kaneshiro: Okay, are there any other questions for the Planning Director? If not, I will call this meeting back to order. Are there any final discussion from the members? Councilmember Chock.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Chock: Thank you, Chair. I just wanted to confirm, I appreciate the great work that our enforcement team has done. It is true, the call, at least when Vice Chair Kagawa and I first got into the Council was a strong call from the public to move forward on enforcement efforts and you should be applauded for that effort and I understand the pinball effect that you are feeling here in this moment, but I think that, like everything else, it needs to be managed and that is part of this discussion and I know you understand that. I see things a little bit different. I think we have been successful, I think the lack of enforcement has caused gentrification and we need to address that as well. Where this fits in the middle, somewhere down the line I am open to, so until I see those amendments and we can have a decent discussion on it, I stand to support this. Thank you.

Council Chair Kaneshiro: Is there anyone else? Councilmember Evslin.

Councilmember Evslin: Thank you, Chair. I want to say that I fully support the lien power for TVRs. If you have an illegal TVR, you are increasing the cost of housing, you are reducing resident-occupied housing, you are creating resort communities in neighborhoods, you are reducing resilience in times of disaster, on and on and on, and you folks need every tool available to enforce against that, including lead power, right? I think as we have seen over and over, as you folks have expressed, you have people willfully violating our laws and sometimes they can make more by renting

it and continue to pay the fines, so I fully support the empowerment for TVRs as we have talked about last year when this came out from Chapter 8. With that said, I am deeply skeptical of lien power for other zoning violations. I do think if you have six (6) unrelated people in a home, that is a zoning violation. If you have a lemonade stand on the side of the street, that is a zoning violation, right? So there are a lot of instances where, in theory, this could be used not well. With that said, as I have said repeatedly, we have a phenomenal Planning Department who is recognizing a lot of the difficulties within our zoning code when you folks came to us about setbacks and on and on and on, trying to untangle this to make it as easy as possible for people to comply. As Ka'aina has said repeatedly, "The intent here is to try and walk people through compliance." The intent is to get them into compliance, not to put a lien on their home. With that said, certainly as Councilmember Cowden is saying it does create the potential for too much power in the future Planning Department. It could be used in a nefarious way, potentially, but I think that is part of the democratic accountability, per year we can change the law, the Mayor is accountable to the Planning Department as well, so I think we just have to stay on the ball on this and all of that said, this is a housekeeping amendment, I think that fight with the Chapter 8 fight, I do think it is important to have Chapter 10 match with Chapter 8, and I certainly look forward and I am hoping to see what Councilmember Cowden and Planning potentially come up with in the future here. I support this Bill.

Council Chair Kaneshiro:

Councilmember Kagawa.

Councilmember Kagawa: Thank you. I agree one hundred percent (100%) with Councilmember Evslin. I just want to go back a little bit, because I was there when the seven (7) of eight (8) won against the County, it was not because they were right and they deserve to legally have that zoning to operate. It was because past Administration or past Planning Departments messed up just like in Honolulu. It is not because they are right and they won the contested case hearing, it was because mistakes were made in the past. It is true, it is something difficult you are going to go through, you are going to see they do not fit, they do not have the necessary permits or what have you, but they have the right to go to contested case and if someone messed up back when they first started operating, then the County loses and it is unfortunate, but what do you do? Do you just complain about the County in the past and you can have whatever you want? That is not right. We need to have the powers and let the Planning Department have the judgment to take action, just because you have agricultural zoning and it is sloped; you do not have water or for whatever reason you cannot successfully do agriculture on your property, does not mean you can raise tourists on your property, just because you need to pay your bills. I did not tell you to buy that agricultural sloped property for one million dollars (\$1,000,000); you bought it because you thought you could pay your bills. It does not mean just because you have a hard time, I can make a TVR, because I need to pay my bills; it is crazy. I want to get off that subject actually. Thank you.

Council Chair Kaneshiro:

Councilmember Kualii.

Councilmember Kualii: I will not repeat everything that Councilmember Evslin said, but I agree with that and I also agree with the concern that Councilmember Cowden has. The ten thousand dollar (\$10,000) fine was increased, I

believe quite a while ago, maybe in 2015, I think Chair Rapozo and I had introduced that on behalf of Planning, with Planning's help. If what Councilmember Cowden is proposing in a future Bill, it is just separating it, where the maximum fine for this type of violation is "x," then the maximum fine of ten thousand dollars (\$10,000) is primarily for TVR type violations, I think we could probably all support that. Let us just get this done and work with Planning and move forward with that. Obviously, it may require some work, which I assume they are already doing with the Planning Department and also with the County Attorney, but I am ready to support today.

Council Chair Kaneshiro: Is there anyone else? If not, roll call vote.

(No registered speakers requested to testify regarding this agenda item.)

The motion to approve Bill No. 2794 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Evslin, Kagawa,	
	Kuali'i, Kaneshiro	TOTAL – 5,
AGAINST ADOPTION:	Cowden	TOTAL – 1,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1*,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes, one (1) no.

Council Chair Kaneshiro: Okay, thank you. The motion passes. With that, we will go back to page 4, Proposed Draft Bill (No. 2803). Councilmember Chock.

Councilmember Chock moved to amend Proposed Draft Bill (No. 2803) as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment, seconded by Councilmember Kuali'i.

Councilmember Chock: This is a housekeeping amendment for a typographical error before you.

Council Chair Kaneshiro: Again, we have the amendment in front of us. Basically, we are just missing one (1) word. It is housekeeping. Is there any discussion on this item?

The motion to amend Proposed Draft Bill (No. 2803), as circulated, and as shown in the Floor Amendment, which is attached herto as Attachment was then put, and carried by a vote of 6:0:1*.

Council Chair Kaneshiro: The motion is carried. Back to the Bill, as amended, do we have any further discussion on this Bill? If not, again, this is for first

reading, it is going to go to public hearing, then on to Committee. With that, roll call vote.

(No written testimony was received and no registered speakers requested to testify regarding this agenda item.)

The motion for passage of Proposed Draft Bill (No. 2803), as amended, on first reading, that it be ordered to print, that a public hearing thereon be scheduled for September 23, 2020, and it be referred to the Finance & Economic Development Committee was then put, and carried by the following vote:

FOR PASSAGE:	Chock, Cowden, Evslin, Kagawa, Kualii, Kaneshiro	TOTAL – 6,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1*,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes.

Council Chair Kaneshiro: Next we are going to read ourselves into Executive Session, but we will take the Executive Session at the end of the day after our Committee Meetings. Clerk, can you please read us into Executive Session?

EXECUTIVE SESSION:

ES-1032 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session to provide a briefing and request settlement authority for an agreement settling potential claims between Mark Development, Inc., Koa'e Workforce Housing LP, Hawai'i Assisted Housing, Inc., and the County of Kaua'i, and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Councilmember Chock moved to convene in Executive Session for ES-1032, seconded by Councilmember Kagawa.

Council Chair Kaneshiro: Is there any discussion on this item, members?

(No written testimony was received and no registered speakers requested to testify regarding this agenda item.)

The motion to convene in Executive Session for ES-1032 was then put, and carried by a vote of 6:0:1*.

Council Chair Kaneshiro: The motion is carried. That concludes our business on our Council Meeting agenda. Seeing no further business and hearing no objections, this Council Meeting is now adjourned.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 10:10 a.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA
County Clerk

:jy

*Beginning with the March 11, 2020 Council Meeting and until further notice, Councilmember Arthur Brun will not be present due to U.S. v. Arthur Brun et al., Cr. No. 20-00024-DKW (United States District Court), and therefore will be noted as excused (i.e., not present).

(August 19, 2020)

FLOOR AMENDMENT

Proposed Draft Bill (No. 2803), Relating to Real Property Tax

Introduced by: MASON K. CHOCK, Councilmember

Amend Proposed Draft Bill (No. 2803), as follows:

1. Amend proposed SECTION 2, Page 7, proposed Section 5A-11.4(h) to read as follows:

“[(5)] (h) The [director] Director of Finance may adopt rules and prescribe forms to implement this [section.] Section, and the Director may adopt by rule the indicia, criteria, or factors and methods of proof to establish whether the applicant’s actual occupancy of the real property qualifies for the purposes or exemptions of this Section.”

(Material to be deleted is bracketed. New material to be added is underscored.)

V:\AMENDMENTS\2020\FA Proposed Draft Bill (No. 2803) CT_jy.docx

